

Amendment and Response

Applicant: John A. Krueger

Serial No.: 10/037,795

Filed: January 3, 2002

Docket No.: SPC - 6137

Title: BONE MARROW ASPIRATION DEVICE WITH CURVED TIP**REMARKS**

This is responsive to the Final Office Action mailed April 3, 2007 and is filed in support of the concurrently filed Request for Continued Examination. In the Final Office Action, claims 6-11 were rejected under 35 U.S.C. §102(b) as being anticipated by Golba, Jr., U.S. Patent No. 5,919,172 ("Golba, Jr."). Claims 12-14 were allowed, and claims 15 and 16 were indicated as being allowable.

With this Response, claim 6 has been amended and claim 17 has been added. Claims 6-17 are pending in the application and are presented for consideration and allowance.

35 U.S.C. §§102, 103 Rejections

With respect to the rejections of claims 6-11 as being anticipated by Golba, Jr., claim 6 recites that a length of the elongated cannula body is greater than a length of the outer cannula. In this regard, claim 6 has been amended to specify the claimed lengths, as suggested in paragraph 4 of the Final Office Action. Support for this language is found, for example, at page 9, line 16 – page 10, line 2; and FIGS. 5-9. With these features in mind, the shield 40 of Golba, Jr. (analogized in the Office Action as being the claimed "outer cannula") has a length that is greater than a length of the tube 12 (viewed in the Office Action as being the claimed "elongated cannula body"), in direct contrast to claim 6. That is to say, the cannula body/tube 12 of Golba, Jr. does not have a length that is greater than a length of the outer cannula/shield 40, as otherwise reflected in FIG. 2 of Golba, Jr. Notably, this construction is required because Golba, Jr. uses the shield 40 (in conjunction with a sealed package 50) to store the needle 10. Golba, Jr. employs the shield 40 to protect an entirety of the needle 10, including the tube 12, such that the shield 40 must have a length that is greater than that of the tube 12. For at least these reasons, it is respectfully requested that the rejection of claim 6 be withdrawn.

Claims 7-11 depend from amended claim 6. Thus, for at least the reasons above, claims 7-11 are also allowable over Golba, Jr.

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Newly presented claim 17 recites a bone biopsy system including a handle portion, an outer cannula, and a bone biopsy aspiration device including an elongated cannula body. The elongated cannula body includes a laterally oriented distal opening and an arcuate curved surface. Further, claim 17 recites that the system is configured to provide a sampling state in which the elongated cannula body is inserted within the outer cannula with a proximal side of the elongated cannula body being proximate the handle portion (that is otherwise coupled to the outer cannula opposite a distal tip of the outer cannula). In the sampling state, a distal tip of the elongated cannula body extends distally beyond the distal tip of the outer cannula. Support for this language is found, for example, in FIG. 9. It is respectfully submitted that at least the above features define patentably distinct subject matter over Golba, Jr. More particularly, the system 50 of Golba, Jr. is not configured to provide the sampling state of claim 17. As best shown in FIG. 2, when the shield/outer cannula 40 is "coupled" to the handle 32 (FIG. 1), it is impossible for the distal tip 24 of the tube/cannula body 12 to extend distally beyond the distal tip (unnumbered) of the shield/outer cannula 40 when the tube/cannula body 12 is inserted within the shield/outer cannula 40 and a proximal side of the tube/cannula body 12 is proximate the handle 32. Thus, allowance of claim 17 is respectfully requested.

CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 6-17 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 6-17 are respectfully requested.

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Any inquiry regarding this Amendment and Response should be directed to Daniel C. Stelter at Telephone No. (847) 578-6650. In addition, all correspondence should continue to be directed to the following address:

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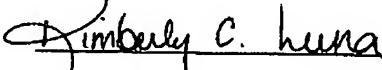
Respectfully submitted,
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Date: 04 Sept 2007


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CERTIFICATE OF TRANSMISSION UNDER 37. C.F.R. 1.8

The undersigned certifies that a true and accurate copy of this "Response to Non-Final Office Action" is being transmitted to the Honorable Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, by facsimile transmission to the above-stated facsimile number, on this the 4th day of September, 2007.



Kimberly C. Luna